

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

AKIL R. SAYLES,

Appellant.

DOCKET NUMBER WD78623

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 29, 2016

APPEAL FROM

The Circuit Court of Saline County, Missouri
The Honorable Dennis A. Rolf, Judge

JUDGES

Division II: Martin, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Colette Neuner, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent,

Erika R. Eliason, Assistant Public Defender
Columbia, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
 Respondent,)
 v.) **OPINION FILED:**
) **March 29, 2016**
 AKIL R. SAYLES,)
)
 Appellant.)

WD78623

Saline County

Before Division II Judges: Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Akil R. Sayles (“Sayles”) appeals the Judgment of the Circuit Court of Saline County, Missouri (“trial court”), finding him guilty, following a bench trial, of an enhanced class D felony of driving while revoked (“DWR”), § 302.321. Sayles contests the sufficiency of the evidence to support enhancing his DWR offense to a class D felony instead of a class A misdemeanor, arguing that the trial court erred in overruling his motion for judgment of acquittal at the close of the evidence because the third enhancement provision in section 302.321.2 only applies when a defendant receives a DWI conviction *concurrently* with a DWR conviction. He contends that because he was only charged with DWR and not with DWI, he did not have a *concurrent* DWI conviction as he argues is required under the statute; therefore, the class D felony enhancement provision under section 302.321.2 was not applicable to him.

AFFIRMED.

Division II holds:

As written, there is no requirement in section 302.321.2 that the “prior convictions” be “concurrent” to the present DWR charge. For the third enhancement provision under section 302.321.2 to apply, the statute only requires that the presently charged DWR offense be combined with two or more prior DWIs or four or more prior convictions for any other offense.

The evidence before the trial court was that Sayles had one prior robbery conviction, three prior DWI convictions, and one prior DWR conviction. The trial court did not err in finding Sayles's DWR offense was enhanced by his prior DWI offenses to a class D felony DWR under section 302.321.2. Accordingly, the trial court did not err in overruling Sayles's motion for acquittal at the close of the evidence.

Opinion by: Mark D. Pfeiffer, Judge

March 29, 2016

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